

**EXHIBIT 3**

**AFFIDAVIT OF PATRICK T. KARNEY**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

UNITED STATES OF AMERICA, ET AL.

Plaintiffs,

V.

THE BOARD OF COUNTY COMMISSIONERS,  
HAMILTON COUNTY, OHIO

### Defendants.

**Case No. 1:02cv00107**  
(Consol. with C-1-02-108 and  
C-1-02-135)

Judge Arthur J. Spiegel  
Magistrate Judge Timothy S. Hogan

**AFFIDAVIT OF PATRICK T. KARNEY, P.E., DEE**

I, being first duly sworn, state as follows:

1. I am over 18 years of age and am competent to testify regarding the following:
2. I am the current director of the Metropolitan Sewer District of Greater Cincinnati in Cincinnati, Ohio ("MSD").
3. After the draft proposed Consent Decree on Combined Sewer Overflows, Wastewater Treatment Plants and Implementation of the Capacity Assurance Program Plan for Sanitary Sewer Overflows (the "Global Consent Decree") was submitted to the Court on October 7, 2003, MSD set out to raise public awareness of its terms and seek comments from the local community and MSD's stakeholders. To that end, MSD hosted five separate community meetings in October 2003, including three meetings for the general public and two meetings targeted at public officials and MSD contractors, to educate the public about the Consent Decree

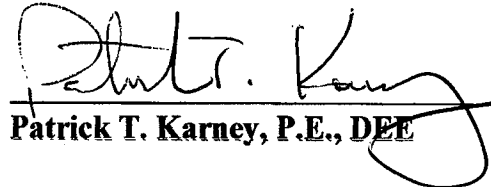
and to provide community members with the opportunity to ask questions and submit formal comments for consideration.

4. In addition to the meetings identified in ¶3, MSD delivered a presentation on the Global Consent Decree at a formal public meeting held by the Hamilton County Board of County Commissioners ("BoCC") on November 19, 2003. MSD delivered a presentation on the Global Consent Decree at a public meeting held by the City of Cincinnati on November 18, 2003 and a public hearing held by the City of Cincinnati on November 20, 2003. At each of these meetings, members of the Sierra Club presented their comments on the Global Decree.

5. On November 26, 2003, the City and County each held public meetings to consider and vote on execution of the Global Consent Decree. Sierra Club again presented its comments opposing the Global Consent Decree at these meetings. The City Council and the BoCC unanimously approved the Global Consent Decree and signed copies were submitted to the Court on December 3, 2003.

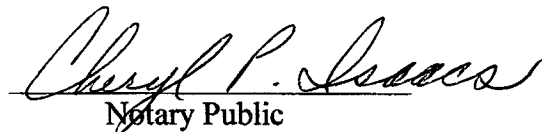
6. During or immediately prior to the public meetings held by the BoCC on November 19, 2003, I approached Plaintiff Marilyn Wall and asked her for the Sierra Club to become a member of the Steering Committee established pursuant to the Public Participation Plan required by Section VII.A.1 of the Global Consent Decree. Ms. Wall did not provide a definitive response to this invitation at that time, nor has the Sierra Club responded to date.

I swear under the penalty of perjury that the foregoing is true to the best of my knowledge and belief.

  
Patrick T. Karney, P.E., DEE

On this 12<sup>th</sup> day of April, 2004, before me, the undersigned officer, personally appeared PATRICK T. KARNEY, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

  
Notary Public

My commission expires:

**CHERYL P. ISAACS**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES 08-29-07